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HOUSE BILL 165

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Thomas E. Swisstack

AN ACT

RELATING TO CHILDREN; ENACTING THE CURFEW ENFORCEMENT ACT;  
PROVIDING MUNICIPALITIES AND COUNTIES WITH AUTHORITY TO ENACT  
CURFEW ORDINANCES; ENACTING NEW SECTIONS OF THE CHILDREN'S  
CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Children's Code is  
enacted to read:

"[NEW MATERIAL] SHORT TITLE. -- This act may be cited as the  
"Curfew Enforcement Act". "

Section 2. A new section of the Children's Code is  
enacted to read:

"[NEW MATERIAL] DEFINITION. -- As used in the Curfew  
Enforcement Act, "neglected child" means a child:

A. who has been abandoned by the child's parent,

underscored material = new  
[bracketed material] = delete

1 guardian or custodian;

2 B. who is without proper parental care and control  
3 or subsistence, education, medical or other care or control  
4 necessary for the child's well-being because of the faults or  
5 habits of the child's parent, guardian or custodian or the  
6 failure or refusal of the parent, guardian or custodian, when  
7 able to do so, to provide them;

8 C. who has been physically or sexually abused, when  
9 the child's parent, guardian or custodian knew or should have  
10 known of the abuse and failed to take reasonable steps to  
11 protect the child from further harm; or

12 D. whose parent, guardian or custodian is unable to  
13 discharge his responsibilities to and for the child because of  
14 incarceration, hospitalization or physical or mental disorder  
15 or incapacity. "

16 Section 3. A new section of the Children's Code is  
17 enacted to read:

18 "[NEW MATERIAL] PURPOSE. -- The purpose of the Curfew  
19 Enforcement Act is to:

20 A. protect children from dangerous circumstances as  
21 a result of being without proper supervision during the hours  
22 between 12:00 a. m. and 5:00 a. m.; and

23 B. provide for the general protection of children  
24 and the community. "

25 Section 4. A new section of the Children's Code is

. 149676. 2

underscored material = new  
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] AUTHORITY TO ENACT CURFEW ORDINANCES. -- A  
3 municipality or county may enact a curfew ordinance if:

4 A. the curfew applies only to children less than  
5 eighteen years of age;

6 B. the curfew applies only to the time period  
7 between 12:00 a.m. and 5:00 a.m.; and

8 C. the municipality or county has established a  
9 family education program that provides information about the  
10 purposes of the curfew ordinance and the availability of  
11 community services. "

12 Section 5. A new section of the Children's Code is  
13 enacted to read:

14 "[NEW MATERIAL] EXCEPTIONS. -- A municipal or county  
15 ordinance shall include exceptions for:

16 A. activities authorized by a school;

17 B. verified employment; and

18 C. instances when a child's parent or legal  
19 guardian has provided the child with permission to be out  
20 between the hours of 12:00 a.m. and 5:00 a.m. "

21 Section 6. A new section of the Children's Code is  
22 enacted to read:

23 "[NEW MATERIAL] ENFORCEMENT. --

24 A. A municipal or county ordinance shall provide  
25 for enforcement of a curfew ordinance in the following manner.

. 149676. 2

underscored material = new  
[bracketed material] = delete

1 Upon a first violation, a law enforcement officer shall issue a  
2 citation to the child and the child shall be required to sign  
3 the citation. The citation shall include a notice that the  
4 child and the child's parents or legal guardians are required  
5 to attend a family education program no later than thirty days  
6 after issuance of the citation. Upon issuing the citation, the  
7 law enforcement officer shall simultaneously contact the  
8 department's call center and attempt to contact the child's  
9 parents or legal guardians.

10 B. If the child and the child's parents or legal  
11 guardians fail to attend a family education program and the  
12 parents or legal guardians of the child received actual notice  
13 of the requirement to attend the family education program, the  
14 child shall be referred to the department. The department  
15 shall conduct an investigation to determine the best interests  
16 of the child pursuant to the provisions of the Abuse and  
17 Neglect Act.

18 C. Upon a second violation of a curfew ordinance,  
19 the child shall be referred to the department. The department  
20 shall conduct an investigation to determine the best interests  
21 of the child pursuant to the provisions of the Abuse and  
22 Neglect Act.

23 D. At the time of issuing a citation to a child, if  
24 a law enforcement officer has reasonable grounds to believe  
25 that the child is a neglected child, the law enforcement

1 officer shall take the child into custody and contact the  
2 department. "

3 Section 7. A new section of the Children's Code is  
4 enacted to read:

5 "[NEW MATERIAL] DATA--RULES.--The department shall adopt  
6 rules regarding collection of data from municipalities and  
7 counties that enact a curfew ordinance. The department shall  
8 provide the legislature with an annual report regarding data  
9 collected from the municipalities and counties. "

10 Section 8. DELAYED REPEAL.--The provisions of the Curfew  
11 Enforcement Act are repealed effective July 1, 2007.

12 Section 9. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2004.

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